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EXTRAORDINARY

PART I—Section 1

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ELECTION COMMISSION, INDIA

NOTIFICATIONS

Madras, the 2nd September 1952

No. 1.—In pursuance of the provisions of sub-section (1) of section 90 of the Representation of the People Act, 1951 (XLIII of 1951), the following election petition presented under section 81 thereof is published for information.

K. B. VENKATACHALA AYYAR, *Chairman,*

Dated, the 2nd September, 1952.

Election Tribunal, Madras.

To

The Election Commission at New Delhi,
Election Petition No. 326 of 1952.

K. Subrahmanyam—*Petitioner.*

Versus

1. Abdul Hameed Khan.
2. A. K. Annaswami.
3. P. Balasubramania Mudallar.
4. T. Bhasker Rao.
5. M. P. Damodaram.
6. S. R. M. Eramanathan Chettlar.
7. Ezhukuttikkal Imbichu Bava.
8. Narasimha Gopalaswami Ayyangar.
9. Grandhi Venkatareddy.
10. S. Guruswami.
11. B. V. Kakkilaya.
12. T. V. Kamalaswamy.
13. Kanumli Venkatramayya.
14. Kondandapani Pillai.
15. Kommareddi Suryanarayana.
16. Kotamaraju Rama Rao.
17. T. M. Krishnasami Iyer.
18. Krovvidi Linga Raju.
19. Medai Dalavol T. Kumaraswami Mudallar.
20. Makkineni Basavapunnalah.

Respondents.

21. M. Mohamed Ismail.
22. Mona Hensman.
23. S. Muthiah Mudalliar.
24. S. Nagaopa
25. S. L. Naidu.
26. K. L. Narasimham.
27. V. M. Obaidullah Sahib
28. Obul Reddi.
29. K. Palanlappan.
30. B. Pattabhi Sitaramayya.
31. T. S. Pattabiraman.
32. Puchalapalli Sundarayya
33. Pydah Venkatanarayana.
34. K. M. Rahimatullah
35. G. Rajagopalan.
36. P. S. Rajagopal Naidu.
37. H. D. Rajah.
38. A. Ramaswami Mudaliar.
39. G. Ranganayakulu alias N. G. Ranga.
40. P. Ravi Varma.
41. Palat Ravunni Menon.
42. K. Sadananda Hegde.
43. Sivalanka Sambhu Praad.
44. P. Sreenivasan.
45. R. Subbayya Naidu.
46. V. M. Surendra Ram.
47. K. Thandavam Chettiar.
48. N. Tulasi Rao.
49. E. G. Vaidyanathan
50. V. Velayutham Chettiar.
51. S. Venkataraman.
52. Yarlagadda Ramanadhababu.
53. Yarlagadha Venkatakrishna Rao.

Respondents.

ELECTION PETITION UNDER ARTICLES 324 AND 329 OF THE CONSTITUTION OF INDIA AND SECTIONS 81 TO 84 AND 100 AND 101 OF THE REPRESENTATION OF THE PEOPLE ACT (XLIII OF 1951).

(1) The petitioner is K. Subrahmanyam, son of C. S. Krishnaswami Iyer aged about 48 years, Film Producer and Director residing at No. 122 San Thome High Road, Mylapore, Madras.

(2) The First respondent Abdul Hameedkhan is residing at Ameer Mahal, Royapettah, Madras.

The second respondent, A. K. Annaswami is residing in Tallakulam, Madurai.

The third respondent, P. Balasubramania Mudaliar is residing at No. 21, Mohandoss Road, Mount Road P.O., Madras.

The fourth respondent, T. Bhaskar Rao is residing at "Rosewood" No. 28, Nungambakkam High Road, Madras.

The fifth respondent, M. P. Damodaran is residing in Vayalalam, Via Tellicherry, North Malabar.

The sixth respondent, S. R. M. Eramanathan Chettiar is residing at "Ramnad House", Tanjore.

The seventh respondent, Exhukuttkkal Imbichi Bava is residing in Ponnani, South Malabar.

The eighth respondent, Narasimha Gopalaswami Ayyangar is residing at No. 5 Queen Victoria Road, New Delhi.

The ninth respondent, Grandhi Venkatareddy is residing in Narasapur, West Godavari.

The tenth respondent, S. Guruswami is residing at No. 15, Natchiappa Chetti Street, Mylapore, Madras.

The eleventh respondent, B. V. Kakkilaya is residing in Maidan Road, Mangalore.

The twelfth respondent, T. V. Kamalaswami is residing at No. 2-C, Bhagavantham Gupta Street, Theagarayanagar, Madras.

The thirteenth respondent, Kanumilli Venkatramayya is residing at Attili, West Godavari.

The fourteenth respondent, Kondandapani Pillai is residing at No. 75, Poonamallee High Road, Kilpauk, Madras.

The fifteenth respondent, Kommareddi Suryanarayana is residing at Pothunuru, Eluru taluk, West Godavari district.

The sixteenth respondent, Kotamraju Rama Rao is residing at No. 7, Jantar Mantar Road, New Delhi.

The seventeenth respondent, T. M. Krishnaswami Iyer is residing at No. 3, Kumaraswami Koil Street, Tirupattur, North Arcot district.

The eighteenth respondent, Krovvidi Linga Raju is residing at Danavaipeta, Rajahmundry.

The nineteenth respondent, Meda Dalavio T. Kumaraswami Mudaliar is residing at Dalavoi Hall, No. 46/8, West Car Street, Tirunelveli Town.

The twentieth respondent is Mukkineni Basavapunnalah. His address is C/O Andhra Provincial Committee, Communist Party of India, Governorpet, Vijayawada.

The twenty-first respondent, M. Mohamed Ismail is residing at No. 37, Pudupet Garden Street, Royapettah, Madras.

The twenty-second respondent, Mona Hensman is residing at No. 63, Harrington Road, Chetpet, Madras.

The twenty-third respondent, S. Muthiah Mudaliar is residing at No. 10, North Mada Street, Mylapore, Madras.

The twenty-fourth respondent, S. Nagappa is residing at Fort, Kurnool.

The twenty-fifth respondent, S. L. Naidu, is residing at No. 111, Poonamallee High Road, Kilpauk, Madras.

The twenty-sixth respondent, K. L. Narasimham is residing at No. 11, Bharathi Road, Perambur, Madras.

The twenty-seventh respondent, V. M. Obaidullah Sahib is residing at No. 9, Anjuman Street, Vellore North Arcot district.

The twenty-eighth respondent, Obul Reddi is residing at No. 24, Second Street, Sait Colony, Egmore, Madras.

The twenty-ninth respondent, K. Palaniappan, Barrister is residing at No. 65, Cherry Road, Salem.

The thirtieth respondent, B. Pattabhi Sitaramayya is residing at No. 118, Gandhi-nagar, Adyar, Madras.

The thirty-first respondent, T. S. Pattabiraman, Advocate is residing at Thiruchengode, Salem district.

The thirty-second respondent, is Puchalapalli Sundarayya. His address is C/O Andhra Provincial Committee, Communist Party of India, Governorpet, Vijayawada.

The thirty-third respondent, Pydah Venkatanarayana is residing at Kakinada.

The thirty-fourth respondent, K. M. Rahimatullah is landholder, residing at Anantapur.

The thirty-fifth respondent, G. Rajagopalan, is residing at No. 6, Conran Smith Road, Gopalapuram, Madras.

The thirty-sixth respondent, P. S. Rajagopal Naidu, is residing at No. 11, Infantry Road, Vellore.

The thirty-seventh respondent, H. D. Rajah, is residing at No. 20, Boag Road, Theagarayanagar, Madras.

The thirty-eighth respondent, A. Ramaswami Mudaliar is residing at "Kensington", Kilpauk, Madras.

The thirty-ninth respondent, G. Ranganayakula alias N. G. Ranga, is residing at Nidubrolu, Guntur district.

The fortieth respondent is P. Ravi Varma. His address is C/O A. B. M. High School, Ongole.

The forty-first respondent, Palat Ravunni Menon, is residing at Karkitamkunnu, via Mannarghat, South Malabar.

The forty-second respondent, K. Sadananda Hegde, Advocate, is residing at Karnad Sadashiva Rao Road, Mangalore.

The forty-third respondent, Sivalanka Sambhu Praad, is residing at No. 14-15, Luz Church Road, Mylapore, Madras.

The forty-fourth respondent, P. Sreenivasan, is residing at No. 1/5-A, Salvamuthiah Mudali Street, George Town, Madras.

The forty-fifth respondent, R. Subbayya Naidu, is residing at Diwan Rama Iyengar Road, Vepery, Madras.

The forty-sixth respondent, V. M. Surendra Ram, is residing at Sath Vilas, Ootacamund.

The forty-seventh respondent, K. Thandavam Chettiar, Advocate, is residing at 5, Race Course, Coimbatore.

The forty-eighth respondent, N. Tulasi Rao is residing at Salyanarayanapuram, Vijayawada.

The forty-ninth respondent, E. G. Vaidyanathan, is residing at No. 18, Railway Station Road, Kodambakkam, Madras.

The fiftieth respondent, V. Velayutham Chettiar, is residing in Paganeri, Rampanathapuram District.

The fifty-first respondent, S. Venkataraman, is residing at No. 25, Conran Smith Road, Gopalapuram, Madras.

The fifty-second respondent, Yarlagodda Ramanadhababu, is residing in Karenchedu via Chirala, Guntur District.

The fifty-third respondent is Yarlagadda Venkatakrishna Rao, whose address is C/O Andhra Provincial Communist Committee, Vijayawada.

(3) The petitioner was one of the candidates nominated for election of 27 members from Madras State to the Council of States, by the elected members of the Madras Legislative Assembly in accordance with the system of proportional representation by means of the single transferable vote as provided, in Article 80 of the Constitution of India. The scrutiny of nominations was held by the Returning Officer on 14th March 1952. The list of valid nominations being the final list of candidates for election was published in the Fort St. George Gazette, dated 17th March 1952. The said list contained the names of 54 candidates including the petitioner. The serial number of the petitioner in the said list was No. 46. The poll was notified to be held on 27th March 1952 in the room of the Secretary, Madras Legislature and it was held accordingly.

(4) As a result of the counting of votes as per the system of proportional representation by means of the single transferable vote, the Respondents Nos. 4, 8, 10, 11, 12, 15, 16, 20, 21, 22, 26, 27, 30 to 39, 42, 43, 46 and 51 were declared elected to the Council of States. The petitioner was the 28th in rank in the order of the number of votes obtained by the candidates, the 27th candidate having obtained 803 votes and the petitioner having obtained 776 votes.

(5) In the list of valid nominations Sri V. M. Surendra Ram of Sath Vilas, Ootacamund has been included as one of the candidates whose serial number in the said list is given as 47 and he is respondent No. 46 in this petition.

The said candidate was not qualified to be chosen to fill a seat in the Council of States as he was below thirty years of age as shown in the relevant entry by the electoral roll in which the name of the candidate is included, certified copy of which was produced by the said candidate in support of his nomination as provided in section 36(7) of the Representation of the People Act, 1951. The petitioner has obtained a certified copy from the Electoral Roll relating to the said candidate from the Registration Officer, Ootacamund which shows that the said candidate was aged only 24 years at the time of preparation of the said roll which was in the year 1948. Accordingly the age of the candidate at the time of nomination for the Council of States was only about 28. Under Article 84 of the Constitution of India, it is provided that a person shall not be qualified to be chosen to fill a seat in the Council of States unless he is not less than 30 years of age in addition to his possessing the other prescribed qualifications. In view of the said Article the nomination paper relating to the said candidate ought to have been rejected as invalid as the candidate was not qualified, to be chosen for the Council of States. In spite of the fact

that the said candidate was not qualified to be chosen as aforesaid, the Returning Officer has accepted his nomination and included his name in the list of valid nominations. Under Section 36 of the Representation of the People Act 1951, the Returning Officer on examination of the nomination paper of the said candidate ought to have on his own motion refused the nomination on the ground that the candidate was not qualified to be chosen to fill the seat as required by Article 84(b) of the Constitution of India. As a result of the improper acceptance of his nomination which was invalid, the said candidate was allowed to stand for the election and he has been declared to be elected as one of the 27 returned candidates. Under Section 100(1)(c) of the Representation of the People Act 1951 such improper acceptance of nomination which has materially affected the result of the election has rendered the election wholly void. The votes of the electors have been illegally allowed to be cast in favour of the said candidate and the counting of votes has been done on the basis that he was validly nominated as a person duly qualified to fill a seat in the Council of States.

(6) The petitioner submits that owing to the improper acceptance of his nomination, the voters have been deprived of their right to elect a duly qualified person for the seat and the petitioner who was one of the duly qualified candidates who has come next after the 27 returned candidates, has lost the chance of being elected and thus the result of the election has been materially affected.

(7) In any event, the election of the said candidate, Sri Surendra Ram, Respondent No. 46 herein, has to be declared to be void as his nomination and election are in violation of Article 84 of the Constitution and the petitioner who has secured the largest number of votes next after the 27 candidates notified as the returned candidates, should be held to have been duly elected on the basis of such a declaration.

(8) The petitioner has enclosed herewith the receipt showing the deposit of Rs 1,000 (Rupees One thousand) made by the petitioner as required by Section 117 of the Representation of the People Act 1951.

(9) The petitioner therefore prays for a declaration that the election for the Council of States from Madras State is wholly void or in the alternative, that the election of the candidate Sri V. M. Surendra Ram, Respondent No. 46 herein is void and that the petitioner has been duly elected as a member of the Council of States and for costs of this petition.

Dated at Madras this 3rd day of July 1952

(Sd.) K. SUBRAMANYAM,
Petitioner.

I, K. Subrahmanyam, the petitioner above named do hereby declare that what is stated in paragraphs 1 to 8 of this petition is true to my knowledge and belief.

(Sd.) K. SUBRAHMANYAM,
Petitioner.

[No. 19/326/52-Elec.III.]

Bhagalpur (Bihar), the 25th August 1952.

No. 142.—In pursuance of the provision of sub-section (1) of section 90 of the Representation of the People Act, 1951 (XLIII of 1951), the following election petition presented under section 81 thereof is published for information:—

(Sd.) ILLEGIBLE,
Chairman.

Dated 25th August, 1952.

IN THE COURT OF THE CHAIRMAN, ELECTION TRIBUNAL AT
BHAGALPUR (BIHAR)

ELECTION CASE No. 4/52

Sri Mahabir Das—*Petitioner.*

Versus

Sri Anup Lal Mehta, Kiral Mushar & others.—*Respondents.*

Election Petition No. 142 of 1952.

Received by me by registered post this the fifteenth day of April, 1952.

(Sd.) P. N. KRISHNA MANI,

Assistant Secretary, Election Commission, India.

To

The Election Commission of India,
New Delhi.

Election petition No. 142 of 1952
relating to the

Election held in the month of January, 1952 to the House of the People in the Bhagalpur-cum-Purnea constituency:—

Sri Mahabir Das, son of Late Darbari Das, by caste—Pasi,
by profession—cultivation, resident of Laloochak,
Thana Mojahidpur, town Bhagalpur, P.O. Mirjanhat
and District Bhagalpur, State of Bihar *Petitioner.*

Versus

1. Sri Anup Lal Mehta, s/o Sri Gorelal Mehta, by caste—
Kolri, by profession—cultivation and business, village
and P.O. Banmankhi, Thana Dharara, District Purnea,
State of Bihar,
2. Sri Kirai Mushar, s/o Khusar Mushar, by caste—Mushar,
by profession—labourer, village Murho, P.O. Murho,
Thana Madhipura, District Bhagalpur, State of Bihar.
3. Sri Murlidhar Singh, s/o Ram Sahay Singh, by caste—
Rajpoot, by profession—cultivation, etc., Mohalla
Madhubani, P.O. Purnea, Thana Khazanchi Hat,
District Purnea, State of Bihar *Respondents.*

The humble petition of the above named petitioner most respectfully sheweth:—

1. That your petitioner was nominated candidate at the election detailed above and is entitled to present this petition to question the election of Sri Anup Lal Mehta and Sri Kirai Mushar, Respondents Nos. 1 and 2, the declaration of whose election has been published in the *Gazette of India*, dated 14th February 1952.

2. That the other respondent Sri Murlidhar Singh was also a candidate at the said election.

3. That the counting of votes took place from 1st to 4th and 10th February 1952 with the following result:—

Name	Votes polled
1. Sri Mahabir Das (petitioner)	124,589
2. Sri Anup Lal Mehta (Respondent No. 1)	159,358
3. Sri Kirai Mushar (Respondent No. 2)	129,144
4. Sri Murlidhar Singh (Respondent No. 3)	99,674

4. That the petitioner and Respondent No. 2 were also candidate for the reserved seat of the said constituency—Bhagalpur-cum-Purnea and they were the only candidates for the said reserved seat.

5. That at the scrutiny which took place on 1st December 1951 the Returning Officer improperly accepted one of the three nomination papers of Respondent No. 2 although there were valid and substantial grounds for the rejection of the said nomination paper also and they are as follows:—

- (a) That the real name of Respondent No. 2 is Kiro Mushar and not Kirai Mushar and Kiro Mushar was not an elector and as such Respondent No. 2 was not qualified to stand as candidate.
- (b) That there was an elector of the name of Kiro Das in the said constituency and in item No. 8 of the nomination paper the serial number of Respondent No. 2 was not given along with the description as required by law and so there was dispute with regard to the identity of Respondent No. 2.

- (c) That similarly the identity of Respondent No. 2 and his proposer and seconder could not be established in as much as the thana number, sub-division and the district appertaining to the electoral roll in which the names of Respondent No. 2 and his proposer and seconder were entered were not given in items Nos. 8, 10 and 14 of the nomination paper in question.
- (d) That as in item No. 7 of the nomination paper the constituency was not properly described the constituency for which Respondent No. 2 stood could not be identified.
- (e) That item No. 6 of the nomination paper was also not properly filled up because the area in relation to the scheduled caste to which Respondent No. 2 was a member, was not mentioned and so Respondent No. 2 was not at all entitled to stand for the reserved seat.
- (f) That the declaration made and signed by Respondent No. 2 in respect of the specific caste of the scheduled castes was not in accordance with law and it clearly contravened the mandatory provisions of Section 33 of the R.P. Act.
- (g) That the signature of Respondent No. 2 on the nomination paper was not genuine in as much as different papers showed different kinds of signature and as such the nomination paper was fit to be rejected.

Your petitioner submits that due to the illegal acceptance of the nomination paper of Respondent No. 2 by the Returning Officer for the reasons given above the result of the election was materially affected in as much as your petitioner would have been returned uncontested.

6. That due to the following material irregularities and illegalities committed in conducting the polling, your petitioner was materially prejudiced and prospects of election of the respondents were considerably furthered:—

- (a) That the presiding officers of at least 41 polling stations of Murliganj and Singheshwar Asthan police stations of Bhagalpur district did not allow the polling agents of your petitioner to attend and work at the polling stations when the polling was going on although they were duly appointed by your petitioner and all legal steps were taken to that effect.
- (b) That on 5th January 1952 at Baljnathpur station bearing No. 289 posters of Respondent Nos. 2 and 3 were pasted and exhibited within 100 yards of the polling station at their connivance when the polling was going on and though objections to this effect were made before the presiding Officer of the Polling station no action was taken. Copy of the objection was also sent to the Returning Officer by registered post on 7th January 1952.
- (c) That at the polling stations bearing Nos. 294 and 296 the presiding Officers announced that there were two kinds of votes—one meant for the reserved seat and the other for the general seat due to which the voters of those polling stations were greatly misled.
- (d) That in Tirbeniganj Thana No. 2, sub-division Supaul, District Bhagalpur the lists of voters supplied to the presiding officers did not contain names of voters of some of the villages of the thana and as such the voters of those villages could not exercise their franchise and had they done so they would have cast their votes in favour of the petitioner.
- (e) That the names of the candidates along with their symbols were not at all displayed at Bhaddi, Dhabauli and Sohāt polling stations as required by rule 19 of the Representation of People Rules, 1951 due to which a large number of voters of those areas who were supporters of the petitioner, were very much misled.

7. That your petitioner submits that the ballot boxes of at least 11 polling stations of Dharhara, Bangawn, Murliganj and Pirpalnty Thanas of Bhagalpur district and Raniganj, Dhamdaha and Rupauli thanas of Purnea district were tampered with inasmuch as the total number of the ballot papers contained in those boxes together with the unused, cancelled and returned ballot papers exceed the number of those received and similarly the ballot papers account of at least 18 polling stations are short.

8. That your petitioner further submits that there are further data to show definitely that there has been tampering of ballot boxes while they were being transported some of which are given below:—

- (a) That box No. 161 of your petitioner was found missing.
- (b) That the form No. 10 accompanying the ballot boxes of polling stations Nos. 176, 292, and 293 were found missing and the form No. 10 accompanying the ballot box of polling station No. 674 was without the signature of the presiding officer and in the case of polling station Nos. 147 and 568 form No. 10 bore no names and number of the Polling station and that in the case of polling stations nos. 556, 653 and 658 the number of polling station etc. was different and in some cases there were corrections in pencil and in some of the form was found in duplicate.
- (c) That some of the ballot boxes of respdt. No. 2, respdt. No. 3 and of respdt. No. 1 were found in duplicate.
- (d) That the paper seals contained in at least 52 ballot boxes gave no clue of the number of the box and polling station etc.
- (e) That inside the ballot box bearing No. 623 of respdt. No. 1 bore the symbol of your petitioner but without the name of the candidate, and three of the ballot boxes of your petitioner bore the symbol of "Two bulls with yoke on" encircled in ink by pen and not by print. This fact was brought to the notice of the Returning Officer on 1st January 1952 and 2nd January 1952 during the time of counting but no action was taken.
- (f) That the ballot papers contained in 41 ballot boxes were found to be of different polling stations.

9. That at the time of counting of the ballot papers proper procedure was not adopted by the Returning officer as would appear from the following:—

- (a) That before the commencement of the counting the provisions of section 128 were not read out by the Returning Officer to the persons present.
- (b) That the ballot boxes were not counted, checked and examined by the Returning Officer and the candidates and the counting agents present were not allowed to inspect the ballot boxes before they were broken open so that they might satisfy themselves if the seals were in tact.
- (c) That adequate precautions were not taken by the Returning Officer for the safe custody of the ballot papers, packets and other documents relating to the election inasmuch as no guards were stationed at two of the three doors of the counting hall and the members of the counting parties were allowed to avail themselves of the recess by turns and they were allowed to stay out for 15 to 20 minutes while the counting was going on.
- (d) That in all there were 25 counting parties on 1st February 1952 to 3rd February 1952 and thereafter the parties were increased to 35 and 20 separate tables were respectively laid out for the purpose of counting the ballot papers in respect of the aforesaid counting parties and in some cases two sets of counting parties used to do the counting at the same table so much so that it was impossible for your petitioner and his counting agent to supervise the counting, know and note the particulars of other improperly accepted votes.
- (e) That the counting of some of the ballot boxes belonging to Respdt. No. 2 and some belonging to respdt. No. 3 was done simultaneously and at the time of counting of ballot papers contained in ballot boxes of Respdt. No. 1 suspicious and extra boxes which bore no symbol or names of the candidate on the outside of the boxes were opened, e.g. 219 (extra box of Respdt. No. 3) and the ballot papers of that ballot box was counted in favour of respdt. No. 2.
- (f) That the ballot box No. 652 bore the name "Anuplal Jha" which was counted in favour of respdt. No. 1.
- (g) That nine boxes of respdt. No. 2 which bore the symbol of respdt. No. 3 were counted in favour of respdt. No. 2.

10. That the method of allotting the ballot boxes to the different candidates where the ballot boxes contained symbols of different candidates, was very defective and prejudicial to the interest of your petitioner in as much as inside the boxes of your petitioner bearing Nos. 206, 330, and 647 bore the symbol of respdt. No. 1 and as such at the time of counting the ballot papers contained in such boxes should have been treated as belonging to respdt. No. 1 and not to those of your petitioner. Similarly the ballot papers contained in ballot box No. 623 should have been counted in favour of your petitioner and not that of respdt. No. 1.

11. That at the time of simultaneous counting of the ballot boxes assigned to the different candidates and also on 4th February 1952 when the sealed packets of all the candidates were opened in the absence of your petitioner and his counting agent where has been intermixing of sealed packets of counted ballot papers of your petitioner with those of Respondent No. 1 of the same numbers and of sealed packets of Respdt. No. 2 with those of respdt. No. 3 of the same numbers as the sealed packets did not contain the name of the particular candidate and other descriptions as laid in law and likewise of sealed packets of the different candidates having the same numbers of sealed packets as they contained no distinguishing marks or descriptions.

12. That the Returning officer did not verify the accounts submitted by the Presiding Officers properly and forms nos. 10, 14, 15 and 16 have not been properly filled up and proper and clear accounts of the ballot papers have not been shown. Nor in some case proper forms have been used and signed by the Returning Officer.

13. That your petitioner submits that for the reasons given in paragraphs 6 to 11 (above) the result of the election has been materially affected and if proper procedure would have been adopted and the irregularities and illegalities enumerated in paragraphs 9 to 11 above would have been avoided the result of the election would have been different and your petitioner would have been declared returned in place of respdt. No. 2.

14. That your petitioner submits that while the counting was still going on your petitioner sent a contradiction which was published under the heading "Not leading" in the "Indian Nation" of 10th February 1952 in reply to the news published in the same newspaper of 7th February 1952 and the same was not challenged by respdt. No. 2.

15. That the petitioner in the course of the counting of the votes marked the certain irregularities and illegalities being committed and had brought the matter to the notice of the Returning Officer to which, however, no particular attention was paid and nothing was done to rectify the situation. Subsequent to this the petitioner's counting agent put the matter in writing in formal petitions and presented them to the Returning Officer containing the illegalities and irregularities referred to herein which must be on the record.

16. That the petitioner thought it proper to have the matter published and it was published in the "Indian Nation", dated 16th February 1952 containing the gist of the illegalities and irregularities. The petitioner also sent and forwarded copies of the petitions to the higher authorities for action. All these matters were to the full knowledge of the Respdts. and although they were vitally interested in contradicting them no such steps were actually taken by them which will indicate strong foundation on which the petitioner's allegations are based.

17. That the return of the election expenses lodged by respdt. No. 2 is not in accordance with law and is false in material particular, full details of which particulars are set out in Schedule A of the list of particulars annexed to the petition. Your petitioner submits that respdt. No. 2 has thereby incurred a disqualification and his election is void.

18. That your petitioner asserts that if the improperly accepted votes are taken out and general scrutiny is allowed for which your petitioner humbly prays respdt. No. 2 will be found to have polled less votes as compared to your petitioner and respondent No. 1 will be found to have polled less votes than what have been shown in form 16 by the Returning Officer.

19. That your petitioner further asserts that but for the tampering of the ballot boxes during their transit and also for the illegalities and material irregularities committed at the time of counting the votes and in conducting the poll your petitioner would have polled the highest number of votes and the result of the election would have been very different.

20. That your petitioner has deposited as security the sum of Rs. 1,000 the receipt of which is hereby enclosed.

21. Wherefore your petitioner humbly prays that the election of respdt. No. 2 be declared to be void and that your petitioner be declared to have been duly elected or in the alternative the election be declared to be wholly void and costs of the election case may be awarded to your petitioner.

I, Mahabir Das, son of late Darbari Das do hereby solemnly declare that the contents of paragraph 5 (a); 6 (a) and (c) to (e) of this election petition are true to my information which I believe to be true and those contained in paragraphs 1 to 4 and sub-paragraphs (h) to (g) of 5, 6 (b); 7 to 12, 14 to 17 and 20 are true to the best of my knowledge and the contents of the remaining paragraphs are in the nature of submission.

(Sd.) MAHABIR DAS, *Petitioner.*

The 12th April 1952.

Verified this, at Bhagalpur (Bihar) this day, the 12th of April, 1952.

(Sd.) MAHABIR DAS.

The 12th April 1952.

SCHEDULE A

Details of the particulars regarding the Return filed by Respondent No. 2

1. On the receipt side all the moneys received by or on behalf of the candidate have not been shown and the corrections and cuttings have not been initialled.

2. On the expenditure side of part "D" no expenses have been shown although as a matter of fact expenses have been incurred.

3. One of the entries shown in the expenditure side of Part "K" is incorrect and several expenses incurred by and on behalf of the candidate have not been shown.

4. All the moneys spent on the account mentioned in part "C" of the return have not been shown.

5. A much larger amount has, as a matter of fact, been incurred by or on behalf of the candidate that the sum total of the amount shown in the return filed by Respd. No. 2.

I, Mahabir Das, do hereby solemnly declare that the contents given in schedule "A" (above) are true to my information which I believe to be true.

(Sd.) MAHABIR DAS, *Petitioner.*

The 12th April 1952.

Verified this, at Bhagalpur (Bihar) this day, the 12th of April, 1952.

(Sd.) MAHABIR DAS.

The 12th April 1952.

No. 190.—In pursuance of the provision of sub-section (1) of section 90 of the Representation of the people Act, 1951 (XLIII of 1951), the following election petition presented under section 81 thereof is published for information.

IN THE COURT OF THE CHAIRMAN, ELECTION TRIBUNAL AT BHAGALPUR (BIHAR)

ELECTION CASE No. 5/52.

Shri Rajendra Prasad Yadav—*Petitioner.*

Versus

Shri Suresh Chandra Mishra and others—*Respondent.*

(Sd.) ILLEGIBLE, *Chairman.*

Dated, the 25th August 1952.

ELECTION PETITION No. 190 OF 1952

Presented to me this the twenty-fourth day of April, 1952 by Shri Rajendra Prasad Yadav, the petitioner.

(Sd.) P. S. SUBRAMANIAN.

The 24th April 1952.

To

The Election Commissioner of India,
New Delhi.

Election petition No. 190 of 1952.

Relating to the House of the People.

Election held from the 4th of January, 1952 to 22nd of January, 1952 in the Monghyr North-East Parliamentary Constituency.

Shri Rajendra Prasad Yadav, village Raghunathpur, P.O. Saheb Kamal, P.S. Ballia, District Monghyr—*Petitioner*.

Versus

Shri Suresh Chandra Mishra, village and P.O. Gogri, P.S. Gogri, District Monghyr—*Respondent*.

The humble petition of the above named petitioner most respectfully sheweth:—

1. That the petitioner was a nominated Congress Candidate at the election detailed above and is entitled to present this petition to question the election of the respondent the declaration of whose election has been published in the *Gazette of India*, dated 14th February, 1952 and the lodging of whose return of election expenses and declaration has been published in the said *Gazette* on 9th April, 1952.

2. That the respondent was also a candidate at the said election and was set up by the Socialist Party.

3. That the counting of votes took place on the 2nd and 3rd of February, 1952 with the following result:—

Shri Rajendra Prasad Yadav—72721 (votes polled).

Shri Suresh Chandra Mishra—73967 (votes polled).

4. That 484 votes were tendered.

5. That the respondent was declared elected by a majority of 1246 votes.

6. That the petitioner asserts that the election of the respondent is invalid and is liable to be set aside on amongst others the following:—

Grounds

1. That the result of the election has been materially affected by the improper reception of bogus votes and the votes of dead persons the names of some of such dead persons are given below.

Voter number	Name	Address
1913	Akal Singh	Borna, Tola Sonbarsa
1919	Ajodhya Sao	Do
1932	Etwarl Paswan	Do
2329	Musahru Marar	Do
2334	Misri Sahni	Do
2481	Samhar Mushar	Do
2025	Chhedl Mushar	Do
2079	Sambati Devi	Do
2218	Ambika Devi	Do

2. That the respondent himself and through his agents committed the corrupt and illegal practices extensively throughout the constituency which effected materially the result of the election—some of the instances are mentioned below:—

(a) That one of the polling booth was Dumri U.P. School but in order to mislead the voters of the petitioner the polling did not take place there but it was at Panshalba U.P. School which was about more than 2 miles off from the Dumri U.P. School.

(b) That the returned candidate, his supporters in connivance with each other in order to create panic with a view to scare away the voters of the petitioner, got a boy of the petitioner's side run over by a Jeep-car for which a case is pending under investigation before the police.

(c) That on 12th January 1952 the Socialist, at the instance of the respondent resorted to even firing by unlicensed arms at Mahesh Khut polling station which created a great panic amongst the voters who left the place for safety and did not exercise their right of franchise. From that day on-ward there was nominal voting as the voters were afraid to come to the polling booths to cast their votes in favour of the Congress candidate the petitioner, and those who came, voted for the Socialist candidate namely Shri Suresh Chandra Mishra under coercion and intimidation.

(d) That the Socialist Candidate and his supporters were freely using Jeep Cars in taking the voters to the polling booths at Sonbarsa, Gogri and Parbatta and other polling booths.

(e) That on account of the absence of the voters list a village Chak Yurup at polling booth at Chandpur Dahgona over 307 votes of Circle No. 7 of Gogri P.S. had to return without exercising their right of franchise on 22nd January, 1952 and the voters' list was made available at 3-35 P.M. when the voters had already left.

(f) That on 8th January, 1952 at Pachaut the Socialist workers with the connivance of respondent No. 1 and his clerk or agent began to create trouble and mischief. One Sri Brajraj Bahadur Singh actually instigated the voters and Socialist workers against the police who were busy in keeping law and order at the polling booth. The said Brajraj Bahadur at the instance of respondent No. 1 actually asked the voters to follow him out of the enclosure where all of them took violent attitude as a result of which the following had to be stopped. This attitude of the Socialist's resulted in overawing the voters who out of fear could not freely exercise their right of franchise.

(g) That on 16th January, 1952 at Sonbarsa U.P. School booth Jageshwar Singh, Suresh Prasad Singh and Anandi Singh who are all Socialist workers of village Kaithi were found behaving in disorderly manner in order to scare away the voters for which they were turned out from the polling station.

(h) That on the 18th January, 1952 at village Usari L.R.D. Estate the voters who were going to cast their votes were threatened by the Socialist workers and on protest being made by the Congress workers, they were beaten as a result of which a large number of voters had to go back out of fear without exercising their right of franchise. A complaint to this effect has already been lodged in Gogri Police station.

(i) That at Idmadi polling station on the 4th of January, 1952 the boxes were removed from that place on the 6th of January, 1952 thus giving sufficient opportunity to the evil designed persons to tamper with the boxes. Specially when the boxes were generally too defective for such tampering.

(j) That about 222 voters of Sitanabad cast their votes on 11th January, 1952 at polling booth No. 208 the same voters again voted at the instance of the respondent at Sitanabad polling booth No. 159 on 16th January, 1952. This practice of double polling of the Socialist prevailed generally through the constituency which affected materially the result of the election.

(k) That the voting of about 622 voters of tola Bhorha of village Simri was to be held at Simri on 17/18th of January, viz whereas the aforesaid voters were misled by the Socialist with the connivance of the respondent to vote at Turki on 11th January, 1952. An objection to this effect was raised before the presiding officer drawing his attention that this was against the proclamation, but the objection was over ruled. This mal-practice restored to by the respondent and his supporters materially affected the election.

(l) That at Garumian Jagir polling station No. 199 on 21st January, 1952 the respondent and his agents and his supporters with his connivance caused about 81 female voters cast in his favour. Those female voters were not entered in the electoral roll by name but by husband's names which is illegal. The number of female voters were noted by the presiding officer. The same practice also prevailed at Khamanth. This practice also prevailed at Khamauti polling station No. 167 and 168 where about 200 such female voters were not allowed to vote on 18th January, 1952.

(m) That at the polling station No. 255 at Dumri 25 ballot papers were found in the petitioner's box while 254 ballot papers were found in the box of the respondent and the total votes polled were 400. At polling station No. 250 at Sonbarsa the total ballot papers found in the boxes of both of the candidates were 754 while the ballot papers actually issued by the presiding officer came to about 500 only. This is the example of tampering and corrupt practice restored to by the respondent. A petition to this effect was filed before the returning officer and the reasonings given by him justifying the difference were incorrect. This practice prevailed generally in the whole of the constituency.

(n) That about 300 ballot papers for parliamentary constituency were found in the box of Choudhery Mazrul Hasan who was a candidate for the State Assembly seat. It does not stand to reason how this thing has happened unless some interested person has got it done.

(o) That one Shlbakanta Mishra who happens to be the own brother of the respondent was on closest term with Mr. N. C. Ganguly who was the presiding officer in several booths of Gogri Chautham P.S. and used to sit as an election agent of the respondent although he was not. At the same time Mr. Ganguly who in collusion with Sibakanta Mishra, did not allow Shri Nageshwer Prasad Yadav polling agent of the petitioner to enter the polling booths wherever Ganguly was incharge of polling.

3. That the method of counting was also very defective inasmuch as about half a dozen boxes were opened at a time, the result was that it was very difficult for the petitioner and his agent to watch the counting.

4. That the corrupt and illegal practices apart, the election is also bad by reason of non-compliance of the various provisions of the Act and the constitution which has materially affected the result of the election.

5. That the election of respondent is also illegal by reason of the fact that the petitioner's boxes were despatched unsigned and unsealed by Mr. Ganguly wherever he was the presiding officer.

6. That the election is also illegal by reason of the fact that the presiding officer did not allow a large number of female voters namely 70 in number to exercise their right of franchise on the ground that the voter list was not with the presiding officer at Monghyr, Raja Kachahari Panchkhuti Jorabarpur on 7th January, 1952.

7. That the election of the respondent is liable to be set aside also on the ground that the respondent has shown in his return of election expenses many items of unauthorised expenses and also that the respondent's election agent has not filed the return of election expenses.

8. That the respondent did not deposit the security money as required under law for standing as a candidate for the House of People.

9. That a list of full particulars of corrupt and illegal practices including full statements as to the names of the parties and dates alleged to have committed and a treasury receipt showing deposit of Rs 1,000 in Imperial Bank on 23rd April, is attached herewith

It is therefore, prayed that your honour would be graciously pleased to declare that the election of respondent No. 1 is void and that the petitioner be declared duly elected or in the alternative the whole election be declared void or pass such other order or orders as to your honour may deem fit and proper.

(Sd.) RAJENDRA PRASAD YADAV,

And for this act the petitioner shall ever pray. I have gone through the contents of this petition and I verify at Patna on this 23rd day of April, 1952 that the statements made above are true to my knowledge.

(Sd.) RAJENDRA PRASAD YADAV,
Village.—Raghunathpur,
P.O.—Sahebpur Kamal,
Distt.—Monghyr (Behar).

List of full particulars of corrupt and illegal practices with date and place as required under section 3(2) of the Representative of the People Act, 1951.

1. That the respondent himself and through his agent committed the corrupt and illegal practices extensively throughout the constituency which effected materially the result of the election some of the instances are mentioned below:—

(i) That one of the polling booths as Dumri U.P. School but in order to mislead the voters of the petitioner the polling did not take place there but it was at Panshatha U.P. School which was about more than 2 miles off from the Dumri U.P. School.

(ii) That the returned candidate his supporters in connivance with each other in order to create panic with a view to scare away the voters of the petitioner, got a boy of the petitioner's side run over by a Jeep-car for which a case is pending under investigation before the police.

(iii) That on 12th January, 1952 the Socialist, at the instance of the respondent resolved to even firing by unlicensed arms at Mahesh Khut polling station which created great panic amongst the voters who left the place for safety and did not exercise their right of franchise from that day on-ward there was nominal voting as the voters were afraid to come to the polling booths to cast their votes in favour of the Congress candidate the petitioner and those who came noted for the socialist candidate namely Sri Suresh Chandra Mishra under coercion and intimidation.

(iv) That the Socialist candidate and his supporters were freely using Jeep-cars in taking the voters to the polling booths at Sonbarsa, Gogri and Parbatta and other polling booths.

(v) That on account of the absence of the voters list a village Chak Yurup at polling booth at Chandpur Dahgona over 307 votes of Circle No. 7 of Gogri P.S. had to return without exercising their right of franchise on 22nd January, 1952 and the voter's list was made available at 3-35 P.M. when the voters had already left.

(vi) That on 8th January, 1952 at Panchauth the Socialist workers with the conveyance of respondent No. 1 and his clerk or agent began to create trouble and mischief. One Sri Brajraj Bahadur Singh actually instigated the voters and Socialist workers against the police who were busy in keeping law and order at the polling booth. The said Brajraj Bahadur at the instance of respondent No. 1 actually asked the voters to follow him out of the encloser where all of them took violent attitude as a result of which the polling had to be stopped. This attitude of the Socialist's resulted in overawing the voters who out of fear could not freely exercise their right of franchise.

(vii) That on 16th January, 1952 at Sonbarsa U.P. School booth Jareshwar Singh, Suresh Prasad Singh and Anandi Singh who are all Socialist workers of village Kaithi were found behaving in disorderly manner in order to scare away the voters for which they were turned out from the polling station.

(viii) That on the 18th January, 1952 at village Usari L.R.D Estate the voters who were going to cast their votes were threatened by the Socialist workers and on protest being made by the Congress workers, they were beaten as a result of which a large number of voters had to go back out of fear without exercising their right of franchise. A complaint to this effect has already been lodged in Gogri Police station.

(ix) That Idmadli the polling station on the 4th of January, 1952 but the boxes were removed from that place on the 6th of January, 1952, thus giving sufficient opportunity to the evil designed persons to tamper with the boxes, especially when the boxes were generally too defective for such tampering.

(x) That about 222 voters of tola Sitanabad cast their votes on 11th January 1952 at polling booth No. 208 the same voters again voted at the instance of the respondent at Sitanabad polling booth No. 159 on 16th January, 1952. This practice of double polling of the Socialist prevailed generally throughout the constituency which affected materially the result of the election.

(xi) That the voting of about 622 voters of tola Bhorha of village Simri was to be held at Simri on 17/18th of January, viz., whereas the aforesaid voters were misled by the Socialist with the help of the respondent to vote at Turki on 11th January, 1952. An objection to this effect was raised before the presiding officer drawing his attention that this was against the proclamation, but the objection was over ruled. This malpractice resorted to by the respondent and his supporters materially affected the election.

(xii) That at Gaurimian Jagir polling station No. 199 on 21st January 1952 the respondent and his agents and his supporters with his conveyance caused about 81 female votes cast in his favour. Those female voters were not entered in the electoral roll by name but by husband's names which is illegal. The number of those female voters were noted by the presiding officer. The same practice also prevailed at Khamauti this practice also prevailed at Khamauti polling station No. 167 and 168 where about 200 such female voters were not allowed to vote on 18th January 1952.

(xiii) That at the polling station No. 255 at Dumri 25 ballot papers were found in the petitioners box while 254 ballot papers were found in the box of the respondent and the total votes polled were 400. At polling station No. 250 at Sonbarsa the total ballot papers found in the boxes of both of the candidates were 754 while the ballot papers actually issued by the presiding officer came to about 500 only. This is the example of tampering and corrupt practices resorted to by the respondent. A petition to this effect was filed before the returning officer and the reasonings given by him justifying the difference are incorrect. This practice prevailed generally in the whole of the constituency.

(xiv) That about 300 ballot papers for parliamentary constituency were found in the box of Choudhery Mazrul Hasan who was a candidate for the State Assembly seat. It does not stand to reason how this thing has happened unless some interested person has got it done.

(xv) That one Shibakanta Mishra who happened to be the own brother of the respondent was on closest term with Mr. N. C. Ganguli who was the Presiding Officer in several booths of Gogri Chautham P. S. and used to sit as an election agent of the respondent although he was not. At the same time Mr. Ganguli who was in before with Shibakanta Mishra did not allow Shri Negeshwar Prasad Yadav polling agent of the petitioner to enter the polling booths wherever Ganguly was in-charge of the polling.

(xvi) That the method of counting was also very defective inasmuch as about half a dozen boxes were open at a time, the result was that it was very difficult for the petitioner and his agent to watch the counting.

(xvii) That the corrupt and illegal practices apart the election is also bad by reason of non-compliance of the various provisions of the Act and the constitution which has materially affected the result of the election.

(xviii) That the election of the respondent is also illegal by reason of the fact that the petitioner's boxes were despatched unsigned and unsealed by Mr. Ganguly wherever he was the presiding officer.

(xix) That the election is also illegal by reason of the fact that the presiding officer did not allow a large number of female voters namely 70 in number to exercise their right of franchise on the ground that the voter list was not with the presiding officer at Monghyr, Raja Kachahar Panchkhuti, Jarabarpur on 7th January 1952.

(xx) That the election of the respondent is liable to be set aside also on the ground that the respondent has shown in his return of election expenses many items of unauthorised expenses and also that the respondent's election agent has not filed the return of election expenses.

(xxi) That the respondent did not deposit the security money as required under law for standing as a candidate for the House of people. He deposited for the membership for Parliament and not for the House of People.

(xxii) That the ballot boxes were defective and without doing much ballot paper have been taken.

(Sd.) RAJENDRA PRASAD YADAV.

The 31st May 1952.

Verification

I have gone through the contents of this list and I verify at Patna on this day 23rd April, 1952 that the statements made above are true to my knowledge.

(Sd.) RAJENDRA PRASAD YADAV,
Vill.—Raghnathpur,
P.O. Sahebpur Kamal,
Distt. Monghyr (Behar).

Received from the petitioner Sri Rajendra Prasad Yadav this thirty-first day of May 1952.

The 31st May 1952.

(Sd.) ILLEGIBLE.

To

THE ELECTION COMMISSIONER OF INDIA,

NEW DELHI.

(Election petition No.....of 1952).

Mandal Sumitra Devi—Petitioner.

Versus

Shri Suraj Narayan Singh and others—Respondent.

Verification of petition

I have gone through the contents of this petition and I verify at Patna on the day 23rd of April 1952 that the statement made in para. 1, 2, 3, 5, 6, para. of grounds in petition 2, 2a, 2d, 2e, 2g, 2J, 2K, 2L, 2M, 2O, 3, 5, 6, 8, 9 are true to my own knowledge and statement made in para. 4 and para. of grounds 1, 2b, 2c, 2f, 2n, 2l, 2n, 4, 7, have been derived from informations and I believe them to be true.

(Sd.) RAJENDRA PRASAD YADAV,

The 3rd May 1952.

Verifications of list of particulars of corrupt or illegal practices committed by the Respondent No. 1 and comes within the meaning of section 83(2) of the representatives of People Act.

I have gone through the contents of this petition and I verified at Patna on the day of 23rd April, 1952 that statement made in para. I, IV, V, X, XI, XII, XIII, XV, XVI, XVII, XVIII, XIX, XX, are true to my own knowledge and statement made in para. II, III, VI, VII, VIII, IX, XIV have been derived from informations and I believe them to be true.

NEW DELHI,

(Sd.) RAJENDRA PRASAD YADAV,

Dated, the 31st May. 1952.

[No. 19/142/52-Elec. III.]

P. S. SUBRAMANIAN,

for Chief Election Commissioner.